

---

**Thursday, April 28, 2011 (at 10:30 o'clock A.M.).**

At the request of the Chair (Mr. Donato), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Pledge of  
allegiance.

*Silent Prayer.*

At the request of Representatives Frost of Auburn and Fattman of Sutton, the members, guests and employees stood in a moment of silent tribute to the memory of Major David L. Brodeur of the United States Air Force, a native of the town of Auburn. Major Brodeur was killed in Kabul, Afghanistan on April 27, 2011 when a gunman shot and killed 8 American service members and a contractor during a meeting of foreign and Afghan officers.

Major David L.  
Brodeur.

Major Brodeur was a 1994 graduate of Auburn High School; and in 1999 he graduated from the United States Air Force Academy in Colorado. A qualified F-16 pilot, he had been in Afghanistan for three months.

Major David Brodeur leaves his wife, Susan, and two children, Elizabeth and David; his parents, Lawrence and Joyce Brodeur of Sutton; and two siblings, Todd and Amanda.

*Guest of the House.*

During the session, the Chair (Mr. Donato of Medford), declared a brief recess and introduced Allie McMullen, accompanied by her mother, Amy, and her father, Rich. Six year old Allie, who was seated on the House Rostrum, has been raising awareness and funds for the research and treatment of Type 1 diabetes since being diagnosed with the disease. Recently Allie was honored by the Boston Celtics when she was presented the "Hero Among Us" Award for her outstanding work in the diabetes community. Allie and her parents were the guests of Representatives Stanley of Waltham and Kaufman of Lexington.

Allie  
McMullen.

*Resolutions.*

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Resolutions (filed by Mr. Brady of Brockton and other members of the House) congratulating Elaine H. Reiser on the occasion of her retirement;

Elaine H.  
Reiser.

Resolutions (filed by Mr. Brownsberger of Belmont and other members of the House) congratulating the American Society of Safety Engineers on its celebration of North American Occupational Safety and Health Week and Occupational Safety and Health Professional Day;

American  
Society of  
Safety Engineers.

Resolutions (filed by Ms. Garlick of Needham) congratulating Brendan Michael Boyd on receiving the Eagle Award of the Boy Scouts of America;

Brendan  
Michael Boyd.

Resolutions (filed by Ms. Garlick of Needham) congratulating Caleb Andrew Smith on receiving the Eagle Award of the Boy Scouts of America; and

Caleb  
Andrew Smith.

Resolutions (filed by Mr. Smola of Palmer) honoring Police Officer James J.

James J.

Lynch, III on the occasion of his retirement from the Palmer Police Department;

Lynch, III.

Mr. Binienda of Worcester, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the rules, in each instance, on motion of Ms. Garlick, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

#### *Petitions.*

A joint petition (accompanied by bill, House, No. 3402) of William M. Straus and Mark C. Montigny for legislation to relocate certain harbor lines in the Fairhaven and New Bedford harbors (having been deposited in the office of Clerk of the House prior to five o'clock in the afternoon of Friday, January 21, 2011, and having been transmitted to the Secretary of the Commonwealth under the provisions of Section 5 of Chapter 3 of the General Laws, and returned by him with memoranda relative thereto) was referred to the committee on Environment, Natural Resources and Agriculture. Sent to the Senate for concurrence.

Fairhaven and  
New Bedford  
harbors.

Mr. DiNatale of Fitchburg presented a petition (subject to Joint Rule 12) of Stephen L. DiNatale and Jennifer L. Flanagan relative to simulcasting; and the same was referred, under Rule 24, to the committee on Rules.

Simulcasting.

Mr. Binienda of Worcester, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, then reported recommending that Joint Rule 12 be suspended. Under suspension of the rules, on motion of Mr. Mariano of Quincy, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Economic Development and Emerging Technologies. Sent to the Senate for concurrence.

Mr. Pignatelli of Lenox presented a petition (subject to Joint Rule 12) of William Smitty Pignatelli for legislation to make certain changes in the laws relative to the issuance of charitable life insurance policies; and the same was referred, under Rule 24, to the committee on Rules.

Charitable  
life insurance  
policies.

Mr. Binienda of Worcester, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, then reported recommending that Joint Rule 12 be suspended. Under suspension of the rules, on motion of Mr. Mariano of Quincy, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on Financial Services. Sent to the Senate for concurrence.

#### *Papers from the Senate.*

A Bill authorizing the lease of certain property at Conomo Point in the town of Essex (Senate, No. 1058) (on a petition) [Local Approval Received], passed to be engrossed by the Senate, was read; and it was referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Essex,—  
Conomo Point.

Mr. Kafka of Stoughton, for said committee, then reported recommending that the matter be scheduled for consideration by the House.

Under suspension of the rules, on motion of the same member, the bill was read a second time forthwith; and it was ordered to a third reading.

Subsequently under suspension of the rules, on motion of Mr. Pedone of Worcester, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time; and it was passed to be engrossed, in concurrence.

A petition of Therese Murray, Kenneth J. Donnelly, Brian A. Joyce, Richard T. Moore and Mark C. Montigny for legislation to improve the administration of state government and finance, came from the Senate referred, under suspension of Joint Rule 12, to the committee on State Administration and Regulatory Oversight.

State government  
and finance.

The House then concurred with the Senate in the suspension of said rule; and the petition (accompanied by bill, Senate, No. 1900) was referred, in concurrence, to the committee on State Administration and Regulatory Oversight .

#### *Engrossed Bill.*

The engrossed Bill authorizing the town of Saugus to place a certain question relative to a real estate tax assessment for snow and ice removal costs on the town's election ballot (see House, No. 3334) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be enacted; and it was signed by the Speaker and sent to the Senate.

Bill  
enacted.

#### *Orders of the Day.*

The House Bill making appropriations for the fiscal year 2012 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interests, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 3400, amended), was considered.

General  
Appropriation  
Bill.

Pending the question on passing the bill, as amended, to be engrossed, Mr. Kafka of Stoughton moved that the vote be reconsidered by which the House, at the previous session, adopted an amendment (offered by him) inserting a section 107A; and the motion prevailed.

Pending the recurring question on adoption of the amendment, the same member moved to amend it at the end thereof by striking out the following: "and in line 11, by adding, after the word 'canes', the following:— or any other medical equipment deemed medically necessary and prescribed by a physician,.". .

The further amendment was adopted; and on the recurring question the amendment, as amended, also was adopted.

Mr. O'Day of West Boylston and other members of the House then moved to amend the bill by adding the following section:

"SECTION 170. Notwithstanding any general or special law to the contrary, there shall be a special commission for the purpose of studying and making recommendations concerning services for unaccompanied homeless youth under eighteen years of age with the goal of ensuring a comprehensive and effective response to the unique needs of this population. The focus of the commission's study shall include, but not be limited to, an analysis of the barriers to serving unaccompanied youth under eighteen years of age; an assessment of the impact of mandated reporting requirements on unaccompanied youths' access to services and the state's ability to identify and connect with unaccompanied youth; and proposals to reduce identified barriers to serving this population, including but not limited to

extending the time for certain categories of mandated reporters to file reports and/or establishing special licensure provisions to allow service providers to serve homeless youth under eighteen years of age. The commission, in formulating its recommendations, shall take account of the best policies and practices in other states and jurisdictions.

The commission shall include the Secretary of the Executive Office of Health and Human services or designee, the Commissioner of Department of Children and Families or designee, the Commissioner of the Department of Elementary and Secondary Education or designee, the Commissioner of the Department of Early Education and Care or designee, the Undersecretary for the Department of Housing and Community Development or designee, two members of the Senate, two members of the House of Representatives, three youth who have experienced homelessness, a representative from each of the following organizations: Massachusetts Coalition for the Homeless, Children's League of Massachusetts, Task Force on Youth Aging Out of Department of Children and Families Care, Massachusetts Appleseed Center for Law and Education, The Massachusetts Mentoring Partnership, the Massachusetts Commission on Gay, Lesbian, Bisexual and Transgender Youth, the Massachusetts Housing and Shelter Alliance, and the Massachusetts Catholic Conference, and seven persons to be appointed by the Governor, five of whom shall be unaccompanied youth service providers.

The commission shall submit a report to the Governor, the Speaker of the House of Representative and the President of the Senate, the Joint Committee on Children, Families and Persons with Disabilities no later than 9 months after the passage of this outside section setting forth the commission's conclusions on how to improve access to services for unaccompanied homeless youth under 18 years of age, together with any recommendations for regulatory or legislative action with a timeline for implementation, cost estimates and finance mechanisms. Thereafter, the commission submit a report annually by December 31 of each year to the Governor, the Speaker of the House of Representative and the President of the Senate, the Joint Committee on Children, Families and Persons with Disabilities detailing the extent of homelessness among unaccompanied youth within the Commonwealth and the progress made toward implementing the commission's recommendations along with other efforts to address the needs of this population."

The amendment was rejected.

Mr. Michlewitz of Boston then moved to amend the bill by adding the following section:

"SECTION 170. Subsection (m) of section 22 of chapter 270 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:—

(6) A local board of health or other municipal health department may make reasonable restrictions and requirements for the licensed operation of a smoking bar but it shall not unreasonably restrict or prohibit the operation of a smoking bar if the smoking bar complies with this chapter."

Pending the question on adoption of the amendment, the same member moved to amend it by striking out proposed section 170 and inserting in place thereof the following section:

"SECTION 170. A local board of health in a city or town with a population of more than 150,000 residents may not prohibit smoking bars licensed to operate as of January 1, 2011, as long as they continue to comply with applicable state and local laws in effect as of January 1, 2011."

The further amendment was adopted, thus precluding a vote on the pending amendment.

Mrs. Creedon of Brockton and other members of the House then moved to amend the bill by adding the following section:

“SECTION 171. Notwithstanding any general or special law, rule or regulation to the contrary, in the city of Brockton, or in the towns of West Bridgewater, East Bridgewater and Easton, no fossil fuel electric power facilities or facility shall be located in an area which is less than 1 mile in linear distance from a playground, licensed day-care center, school, church, area of critical environmental concern, as determined by the secretary of environmental affairs pursuant to 301 CMR 12.00, or an area occupied by residential housing. Said linear distance shall be measured from the outermost perimeter of such facility to the outermost point of the aforementioned zones; provided, however that any such facility in operation on January 1, 2011, shall not be subject to this act. For the purpose of this section, ‘fossil fuel electric power facilities or facility’ shall be defined as any electric generating power plant that is fueled in whole or in part, by coal, oil or natural gas.”.

The amendment was rejected.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by adding the following section:

“SECTION 171. Section 188 of chapter 149 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting, in line 14, after the word ‘individual’ the following words:— , who is a resident of the Commonwealth of Massachusetts.”.

The amendment was adopted.

Mr. Nangle of Lowell then moved to amend the bill by adding the following section:

“SECTION 172. Section 6 of Chapter 176J, as amended by Section 29 of Chapter 288 of the Acts of 2010 is hereby amended by striking subsection (c) in its entirety and replacing it with the following new language:—

(c) Notwithstanding any general or special law to the contrary, the commissioner may require carriers offering small group health insurance plans, including carriers licensed under chapters 175, 176A, 176B or 176G, to file all changes to small group product base rates and to small group rating factors at least 90 days before their proposed effective date. The commissioner shall disapprove any proposed changes to base rates that are excessive, inadequate or unreasonable in relation to the benefits charged. The commissioner shall disapprove any change to small group rating factors that is discriminatory or not actuarially sound. The determination of the commissioner shall be supported by sound actuarial assumptions and methods, which shall be provided in writing to the carrier. Rate filing materials submitted for review by the division shall be deemed confidential and exempt from the definition of public records in clause Twenty-sixth of section 7 of chapter 4. The commissioner shall adopt regulations to carry out this section.

Section 6 of Chapter 176J, as amended by Section 29 of Chapter 288 of the Acts of 2010 is further amended by striking subsection (f) in its entirety and replacing it with the following new language:—

(f) If the commissioner disapproves the rate submitted by a carrier the commissioner shall notify the carrier in writing no later than 60 days prior to the proposed effective date of the carrier’s rate. If the commissioner fails to issue a written decision 60 prior to the proposed effective date of the rate, the carrier’s proposed base rates shall be deemed approved. If the carrier’s proposed based rate has been disapproved, the carrier may submit a request for hearing with the division of insurance within 10 days of such notice of disapproval. The division must

schedule a hearing within 10 days of receipt. The commissioner shall issue a written decision within 30 days after the conclusion of the hearing.”.

The amendment was adopted.

Ms. Gobi of Spencer and other members of the House then moved that the bill be amended by adding the following section:

“SECTION 173. Section 139 of chapter 164 of the General Laws is hereby amended by striking subsection (f) and inserting in place thereof, the following:—

(f) The aggregate net metering capacity of facilities that are not net metering facilities of a municipality or other governmental entity or an agricultural entity shall not exceed 1 per cent of the distribution company’s peak load. The aggregate net metering capacity of net metering facilities of a municipality or other governmental entity shall not exceed 2 per cent of the distribution company’s peak load. The maximum amount of generating capacity eligible for net metering by a municipality or other governmental entity shall be 10 megawatts. The aggregate net metering capacity of net metering facilities of an agricultural entity shall not exceed 1 per cent of the distribution company’s peak load. The maximum amount of generating capacity eligible for net metering by an agricultural entity shall be 5 megawatts. For the purpose of calculating the aggregate capacity, the capacity of a solar net metering facility shall be 80 per cent of the facility’s direct current rating at standard test conditions and the capacity of a wind net metering facility shall be the nameplate rating.”.

The amendment was adopted.

Representative Atsalis of Barnstable then moved to amend the bill in section 2E, in item 1595-5819, in line 18, by inserting after the word “Fund” the following: “; provided further that for the purpose of this line item, Massachusetts nonprofit disproportionate share hospitals with a Medicare payer mix percentage greater than 45% of Total Gross Patient Service Revenue using FY09 403 cost report data shall be defined as a public service hospital; further provided public service hospitals qualifying under this line item shall receive an equal payment of the amount of surplus public service hospital safety net care payment monies from public service hospitals qualifying under 114.1 CMR 36.02; further provided that these funds may only be disbursed if allowed by the Commonwealth’s 1115 Medicaid waiver”.

Mr. Peterson of Grafton thereupon asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Donato of Medford), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 146 members were recorded as being in attendance.

Quorum,—  
yea and nay  
No. 66.

**[See Yea and Nay No. 66 in Supplement.]**

Therefore a quorum was present.

Subsequently a statement of Mr. Lewis of Winchester was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that I was absent from the House Chamber for the early portion of today’s session because I was in my district joining Governor Patrick for a visit to Stoneham High School, where we addressed the students about the importance of civic engagement. My missing of the first quorum roll call today was due entirely to the reason stated.

Statement of  
Mr. Lewis of  
Winchester.

The amendment offered by Mr. Atsalis of Barnstable then was adopted.

After remarks on the question on passing the bill, as amended, to be engrossed, Mr. Swan of Springfield moved to amend the bill by adding the following section:

“SECTION 174. Notwithstanding any general or special law to the contrary, upon passage of the bill, the ‘Senator Charles E. Shannon, Jr. Community Safety Initiative,’ shall include the following language in line 35, inserting after the word ‘police’ the following words:— nor municipal police departments within staff consisting of more than 25; provided further, that said funds shall not be used for police overtime; provided further, that funds shall be expended as a priority to community-based organizations; provided further, that the executive office of public safety and security shall as part of its published guidelines, establish oversight and transparency requirements.”.

Pending the question on adoption of the amendment, the same member moved to amend it by striking out proposed section 174 and inserting in place thereof the following section:

“SECTION 174. The executive office of public safety and security shall evaluate and report on the current status of the Senator Charles E. Shannon Community Safety Initiative. The report shall include, but not be limited to, an assessment of the current disbursement process of funds and the feasibility of prioritizing community-based organizations in addition to precluding such funds from being used for police overtime. The executive office of public safety and security shall file said report with the joint committee on public safety along with any necessary recommendations on or before December 31, 2011.”.

The further amendment was adopted, thus precluding a vote on the pending amendment.

After remarks on the question on passing the bill, as amended, to be engrossed (Mr. Mariano of Quincy being in the Chair), Mr. Peterson of Grafton asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Mariano), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call (the Speaker being in the Chair) 145 members were recorded as being in attendance.

Quorum,—  
yea and nay  
No. 67.

**[See Yea and Nay No. 67 in Supplement.]**

Therefore a quorum was present.

\ After remarks, Mr. Dempsey of Haverhill and other members of the House then moved (consolidated labor and workforce development) to amend the bill in section 2

In item 4401-1000, in line 10, by inserting after the word “SAFE” (inserted by amendment) the following: “; provided further, that the department may expend funds for vocational specialists staffed by the university of Massachusetts; provided further, that the department shall expend no less than \$3,000,000 for providers with whom the department entered into service agreements with in fiscal year 2011 as procured under the Competitive Integrated Employment Services program”; and in said item by striking out the figures “\$3,689,934” and inserting in place thereof, the figures “\$6,689,934”;

By inserting after item 7002-0010 the following item:

“7002-0012 For a youth-at-risk program targeted at reducing juvenile delinquency in high risk areas; provided, that these funds may be expended for the development and implementation of a year-round employment program for at-risk youth as well as existing year-round employment programs; provided further, that \$500,000 of these funds shall be matched by private organizations; and provided further, that funds shall be available for expenditure

through September 1, 2012..... \$2,000,000”;

By striking out item 7003-0702 and inserting in place thereof the following item:

“7003-0702 For the Massachusetts Service Alliance to administer State Service Corps grants and provide training and support to volunteer and service organizations; provided, that not less than \$250,000 shall be expended for the New England Farm Workers Council; provided further, that not less than \$250,000 shall be expended for the Urban League of Eastern Massachusetts; provided further, that programs that develop, promote and protect Latino businesses and communities in Massachusetts that were funded in the fiscal year 2010 general appropriations act shall receive the same level of funding as appropriated to said program in item 7003-0702 in chapter 27 of the acts of 2009; and provided further, that programs supporting and promoting cultural heritage and diversity in the city of Boston that were funded in the fiscal year 2009 general appropriations act shall receive 50 per cent of the amount appropriated to said program in item 7003-0702 in the chapter 182 of the acts of 2008 ..... \$1,350,000”;

By inserting after item 7007-0800 the following item:

“7007-0801 For microlending grants of up to \$100,000 to be issued to established Community Development Financial Institutions making direct microenterprise and small business loans to borrowers on a regional basis, as well as providing technical assistance to applicants and borrowers in order to foster business establishment and success; provided, that the funds will be used to support the eligible organization's lending and technical assistance activities ..... \$200,000”;

By striking out items 7008-0900 and 7008-0901 and inserting in place thereof the following item:

“7008-0900 For the operation of the Massachusetts office of travel and tourism; provided, that the office shall be the official and lead agency to facilitate and attract major sports events and championships in the commonwealth; provided further, that the office shall be the official and lead agency to facilitate motion picture production and development within the commonwealth; provided further, that funds appropriated within this item shall also be used for financial assistance to local tourist councils pursuant to section 14 of chapter 23A of the General Laws; and provided further, that not less than \$200,000 shall be expended as grants for the Bay State Games ..... \$1,988,167”;  
Massachusetts Tourism Fund 100%”;

In item 7008-1000 by striking out the figures “\$1,000,000” and inserting in place thereof the figures “\$6,000,000”;

By striking out item 7008-1300 and inserting in place thereof the following item:

“7008-1300 For the operation of the Massachusetts International Trade Office.....\$100,000  
Massachusetts Tourism Fund 100%”;

In section 53 (as printed), in line 521, in section 54 (as printed), in line 533, in section 55 (as printed), in line 545, in section 56 (as printed), in line 557, and in section 57 (as printed), in line 569, by striking out the word “may” and inserting in place thereof, in each instance, the word: “shall”;



In section 59, in line 622, by striking the figure “1” and inserting in place thereof the following word “one”, and in line 670, by striking out the following: “(b) and (c)” and inserting in place thereof the following: “(b), (c), and (d)”, and in line 679, by striking out the following “(c)” and inserting in place thereof the following: “(d)”.

After debate on the question on adoption of the amendments (Mr. Mariano of Quincy being in the Chair), the sense of the House was taken by yeas and nays at the request of Mr. Wagner of Chicopee; and on the roll call 151 members voted in the affirmative and 5 in the negative.

**[See Yea and Nay No. 68 in Supplement.]**

Therefore the amendments were adopted.

On the question on passing the bill, as amended, to be engrossed, Mr. Peterson of Grafton asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Mariano), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 153 members were recorded as being in attendance.

**[See Yea and Nay No. 69 in Supplement.]**

Therefore a quorum was present.

Ms. Khan of Newton and other members of the House then moved to amend the bill by adding the following section:

"SECTION 175. All state agencies which use the ASAP, Assessment for Safe and Appropriate Placement, instrument will: 1) consult with relevant experts to revise the assessment instrument based on evidence-based practice; 2) create a process for keeping the instrument current with evolving best practice standards; and, 3) ensure that all relevant staff are informed about the ASAP and have appropriate training in how to make referrals and incorporate ASAP results into their case management and treatment planning."

Pending the question on adoption of the amendment, Ms. Khan moved to amend it by striking out proposed section 175 and inserting in place thereof the following section:

"SECTION 175. Section 33B of chapter 119 of the General Laws, as so appearing, is hereby amended by adding at the end thereof, the following:— All state agencies that use the Assessment for Safe and Appropriate Placement (ASAP) instrument shall 1) consult with relevant experts to revise the assessment instrument based on evidence-based practice; 2) create a process for keeping the instrument current with evolving best practice standards; and, 3) ensure that all relevant staff are informed about the ASAP and have appropriate training in how to make referrals and incorporate ASAP results into their case management and treatment planning. The Massachusetts Adolescent Sex Offender Coalition (MASOC) shall provide training staff in partnership with the department on the revised and updated ASAP Referral Form."

The further amendment was adopted, thus precluding a vote on the pending amendment.

On the question on passing the bill, as amended, to be engrossed, Mr. Peterson of Grafton asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Mariano), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 151 members were recorded as being in

Amendments  
(labor and  
workforce  
development)  
adopted,—  
yea and nay  
No. 68.  
Quorum.

Quorum,—  
yea and nay  
No. 69.

Quorum.

Quorum,—  
yea and nay

attendance.

No. 70.

**[See Yea and Nay No. 70 in Supplement.]**

Therefore a quorum was present.

After further debate on the question on passing the bill, as amended, to be engrossed, Mr. Webster of Pembroke and other members of the House moved to amend the bill by adding the following section:

“SECTION 176. The General Laws, as appearing in the 2008 Official Edition, are hereby amended by inserting after chapter 117A the following new chapter:—

**Chapter 117B Restrictions on Public Benefits**

Section 1. Definitions. As used in this chapter the following terms shall have the following meanings unless the context clearly requires otherwise:— “Emergency Medical Condition,” the same meaning as provided in section 1396b (v) (3) of Title 42 of the United States Code. “Federal Public Benefits,” the same meaning as provided in section 1611 of Title 8 of the United States Code. “State Public Benefits,” the same meaning as provided in section 1621 of Title 8 of the United States Code.

Section 2. (a) Except as otherwise provided in subsection (3) of this section or where exempted by federal law, on and after January 1, 2011, each agency or political subdivision of the commonwealth shall verify the lawful presence in the United States of every natural person eighteen years of age or older who applies for state public benefits or for federal public benefits which are for the benefit of the applicant. (b) This section shall be enforced without regard to race, religion, gender, ethnicity, or national origin. (c) Verification of lawful presences in the United States shall not be required: For any purpose for which lawful presence in the United States is not required by law, ordinance, or rule; For obtaining health care items and services that are necessary for the treatment of an emergency medical condition of the person involved and are not related to an organ transplant procedure; For short-term, non-cash, in-kind emergency disaster relief; For public health assistance for immunization with respect to diseases and for testing and treatment of symptoms of communicable diseases; For programs, services, or assistance, such as soup kitchens, crisis counseling and intervention, and short-term shelter specified by Federal laws or regulations that: Deliver in-kind services at the community level, including services through public or private nonprofit agencies; Do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient’s income or resources; and Are necessary for the protection of life or safety or; For parental care. (d) An agency or a political subdivision shall verify the lawful presence in the United States of each applicant eighteen years of age or older for federal public benefits or state public benefits by requiring the applicant to: (1) Produce: A valid Massachusetts driver license or a Massachusetts identification card, issued pursuant to section 8 of chapter 90 of the General Laws, and 540 Code of Massachusetts Regulation (CMR) 2.06 (3) (b); A United States military card or military dependent’s identification card; or A United States Coast Guard Merchant Mariner card; or A Native American tribal document. (2) If such documentation as required in subparagraph (1) of subsection (d) of this section cannot be lawfully produced, execute a notarized affidavit stating: That he or she is a United States citizen or legal permanent resident; or That he or she is otherwise lawfully present in the United States pursuant to federal law. (e) Notwithstanding the requirements of subparagraph (1) of subsection (d) of this section, the Commissioner of the Department of Revenue may issue emergency rule, to be effective until July 1, 2010, providing for additional forms of identification or a waiver process to ensure

that an individual seeking benefits pursuant to this section proves lawful presence in the United States. This subsection and all emergency rules authorized hereunder shall cease to be effective as of July 1, 2010. (f) A person who knowingly makes a false, fictitious, or fraudulent statement or representation in an affidavit executed pursuant to subsection (4) of this section shall pay a fine of not less than \$1,000 and not more than \$5,000, or shall be sentenced to serve not less than 6 months nor more than 1 year in the House of Corrections. Each time that a person receives a public benefit based upon such a statement or representation they make shall constitute a separate violation of this section. (g) (1) For an applicant who has executed an affidavit stating that he or she is an alien lawfully present in the United States, verification of lawful presence for federal public benefits or state or local public benefits shall be made through the Federal Systematic Alien Verification for Entitlement program, referred to in this section as the "SAVE program", operated by the United States Department of Homeland Security. Until such verification of lawful presence is made, the affidavit may be presumed to be proof of lawful presence for purposes of this section. (2) The secretary of each executive office of the commonwealth shall promulgate regulations to ensure that each agency or political subdivision has access to the SAVE program by way of the executive office under which it is organized. Each executive office shall be responsible for the verification through the SAVE program of all its sub agencies. Each executive office shall enter into a memorandum of understanding or any other requirement pursuant to the SAFE program in order to streamline the verification process. Each executive office shall keep account of all applications submitted through its subdivisions and transfer back to its subdivisions any costs on an annual basis. (h) Agencies or political subdivisions of the commonwealth may adopt variations of the requirements of paragraph (b) of subsection (4) of this section to improve efficiency or reduce delay in the verification process or to provide for adjudication of unique individuals circumstances in which the verification procedures in the section would impose unusual hardship on a legal resident of the commonwealth; provided, that the variations shall be no less stringent than the requirements of this section, including provisions to timely execute notarized affidavits. (i) It shall be unlawful for an agency or political subdivision of the commonwealth to provide a federal public benefit or state or local public benefit in violation of this section. Each agency or department that administers a program that provides state or local public benefits shall provide an annual report with respect to its compliance with this section to the auditor and to the House and Senate chairs of the joint committee on state administration and regulatory oversight. (j) Errors and significant delays by the SAVE program shall be reported to the United States Department of Homeland Security which monitors the SAVE program and its verification application errors and significant delays and report yearly on such errors and delays, to ensure that the application of the SAVE program is not wrongfully denying benefits to legal residents of the State.

Section 3. If any provision of this act or the application thereof to any person or circumstance is held by any court to be unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this act that can be given effect without the invalid provision or application, and to this end the provisions of the section are declared to be severable."

Pending the question on adoption of the amendment, Mr. Dempsey of Haverhill moved to amend it by striking out proposed section 176 and inserting in place thereof the following six sections:

"SECTION 176. (a) Notwithstanding any general or special law to the

contrary, the MassHealth program within the executive office of health and human services shall: (i) continue to implement the state option provided by section 1902(ee) of the Social Security Act, 42 U.S.C. section 1396a(ee), to verify the citizenship or nationality of individuals declaring to be United States citizens or nationals; and (ii) register for the federal Systematic Alien Verification for Entitlements, or SAVE system, to verify the immigration status of applicants presenting an alien admission number or alien file number.

Consistent with federal and state law and notwithstanding (a)(ii) of this section, the registration of the MassHealth program for the SAVE system may be incorporated into a system for the executive office of health and human services and all agencies organized therein, to determine common eligibility standards for applicants, provided that such system shall include registration for the SAVE system. Nothing in this section shall be construed to prevent the development of a system of common eligibility standards that includes additional agencies outside the executive office of health and human services, provided that such system shall include registration for the SAVE system.

(b) Annually, on or before February 1, or as further developments warrant, the executive office of health and human services or the executive office of administration and finance shall report to the senate and house committees on ways and means the status of efforts to implement a system to determine common eligibility standards for applicants.

(c) Annually, on or before February 1, the executive office of health and human services shall report to the senate and house committees on ways and means and the executive office for administration and finance the amount of money recovered from recipients, providers or other vendors who fraudulently received benefits or payments under chapter 118E of the General Laws.

SECTION 177. Notwithstanding any general or special law to the contrary, to prevent fraud and misuse of public assistance benefits, the department of transitional assistance shall continue to:

(1) consistent with federal and state law, require all applicants for benefits to declare in writing under penalty of perjury whether the individual is a citizen of the United States and if not whether the individual meets applicable immigration status requirements; provided, however, that noncitizens shall be required to provide documentation from the United States Department of Homeland Security or such other documents as the department determines constitutes reasonable evidence of required immigration status; provided further, that consistent with federal and state law, the state shall provide a reasonable opportunity to submit evidence of required immigration status and will not delay, deny, reduce or terminate benefits on the basis of immigration status until such verification is provided; provided further, that the department of transitional assistance shall use the federal Systematic Alien Verification for Entitlements or SAVE system to verify the immigration status of any noncitizen whose documentation includes an alien registration number to determine whether the individual meets noncitizen requirements for benefit eligibility purposes and shall verify the social security number of each individual seeking benefits, citizens as well as noncitizens, in accordance with procedures established by the Social Security Administration;

(2) implement data matching with the department of revenue, the department of children and families, the division of unemployment assistance and any other relevant state agencies to verify financial and categorical eligibility criteria;

(3) cooperate fully with the food and nutrition service of the United States Department of Agriculture in pursuing and prosecuting vendor fraud;

(4) refer all credible reports of fraud received from its fraud hotline or any other source to the bureau of special investigations for investigation in accordance with protocols for prioritizing cases;

(5) pursue, to the fullest extent possible, consistent with protocols for prioritizing cases, administrative disqualification penalties for instances of Supplemental Nutrition Assistance Program and cash assistance fraud; and

(6) report annually to the senate and house committees on ways and means and the executive office for administration and finance the amount of money recovered by the department from those who received benefits fraudulently and the number of recipients who were issued partial or lifetime disqualifications.

SECTION 178. Consistent with federal and state law, and to prevent fraud and misuse of unemployment benefits, the division of unemployment assistance shall continue to:

(1) maintain interagency agreements with the United States Social Security Administration and the United States Citizenship and Immigration Service within the Department of Homeland Security to utilize a primary verification system to determine citizenship or work authorization at the time of new claim filings through the SAVE system;

(2) require noncitizen claimants to provide their alien registration number; provided, however, that the division of unemployment assistance shall verify claimant information and alien registration number with the United States Citizenship and Immigration Service within the Department of Homeland Security;

(3) require noncitizen claimants who cannot provide an alien registration number during the new claim process to send copies of any official documents they have that authorize them to work in the United States to the division of unemployment assistance;

(4) institute a secondary verification process for claims for which a non-citizen does not have an alien registration number or if primary verification does not establish satisfactory status, using division staff to review the documents and transmit pertinent information from the documents for verification with the United States Citizenship and Immigration Service within the Department of Homeland Security;

(5) flag expiration dates of work authorizations or in the unemployment insurance system if such dates exist; and

(6) report annually to the senate and house committees on ways and means and the executive office for administration and finance the amount of money recovered by the division of unemployment assistance from those who received benefits fraudulently as well as the numbers of recipients who were issued disqualifications.

SECTION 179. (a) Notwithstanding any general or special law to the contrary, an applicant for the MassGrant program administered by the department of higher education office of grant assistance shall complete the Free Application for Federal Student Aid or other federal student loan program that verifies both financial and citizenship eligibility.

(b) The secretary of education shall continue to report annually to the senate and house committees on ways and means and the executive office for administration and finance the amount of money recovered by the department of education from those who received assistance fraudulently and the number of recipients who were issued partial or lifetime disqualifications.

SECTION 180. (a)(1) Notwithstanding any general or special law to the contrary, the department of housing and economic development shall continue to direct local housing authorities to:

(i) require an applicant to provide the local housing authority with access to reliable and reasonably obtainable documentation verifying the accuracy of information provided by an applicant on an application form or otherwise necessary at the time of determining final eligibility and qualification; provided, however, that income of applicants shall be verified by the procedure set forth in paragraph (2); provided further, that if the local housing authority has verified any information when making a preliminary determination of eligibility for the applicant, the local housing authority shall reverify that information on its final determination of eligibility and qualification; and provided further, that nonreceipt of requested documentation, without good cause established by the applicant, shall be cause for determining that the applicant is unqualified;

(ii) require an applicant to provide the names and current addresses of all landlords or housing providers for the applicant and the applicant's household members during the 5 years immediately preceding the application to the date of the final determination; provided, however, that if after request the local housing authority has failed to receive a reference from a landlord or a housing provider, it shall notify the applicant of nonreceipt and the local housing authority shall request that the applicant use his best efforts to cause his landlord or housing provider to submit the reference to the local housing authority; provided further, that in the event that the applicant uses his best efforts but is unsuccessful, the applicant shall cooperate with the local housing authority in securing information from other sources relative to the tenancy; and provided further, that nonreceipt of a reference from a landlord or housing provider shall be cause for determining an applicant unqualified unless the applicant can show that he has used best efforts to secure the reference and that he has complied with reasonable requests for cooperation in securing other information;

(iii) obtain criminal offender record information for each applicant and, if necessary, check public records, credit reports, other sources of public information and other reliable sources; provided, however, that the local housing authority may conduct a home visit, which shall be scheduled reasonably in advance; and provided further, that observations by the person making such a visit shall be promptly reduced to writing and placed in the applicant's file; and

(iv) obtain information regarding eligibility or qualification from interviews with the applicant and with others from telephone conversations, letters or other documents and from other oral or written materials; provided, however, that all such information received shall be recorded in the applicant's file, including the date of its receipt, the identity of the source and the person receiving the information.

(2) The local housing authority shall assess financial eligibility by reviewing the applicant's net household income. In reviewing the applicant's financial status, the local housing authority shall assess net household income pursuant to regulations and guidelines promulgated by the department of housing and community development.

(b) The secretary of housing and economic development shall report annually to the senate and house committees on ways and means and the executive office for administration and finance the amount of money recovered by the department from those who received assistance fraudulently and the number of recipients who were issued partial or lifetime disqualifications.

SECTION 181. (a) Notwithstanding any general or special law to the contrary, the house and senate committees on post audit and oversight shall conduct a joint hearing during each session of the General Court to consider the operation of, and compliance with, citizenship verification measures for the receipt of public

assistance benefits. The committees may invite the secretaries of health and human services, administration and finance, education, labor and workforce development and housing and economic development, and any other relevant agency representative, to testify as to the agency's activity, including, but not limited to, (1) compliance with the federal Systematic Alien Verification for Entitlements, or SAVE system; (2) development of a system of common eligibility standards; (3) prevention of fraud and misuse of public benefits, including the amount of money recovered from those who received benefits fraudulently and the number of recipients who were issued disqualifications; (5) the status of interagency agreements; (6) and areas of difficulty in enforcing citizenship verification measures, including the net cost of such measures. The committee shall inform the membership of the General Court of the findings of the hearing by filing a report with the clerks of the house and senate.

(b)Notwithstanding any general or special law to the contrary, the house and senate committees on post audit and oversight shall, on or before July 31, 2011, conduct a joint hearing to consider the Commonwealth's participation in the Secure Communities program, as established by the U.S. Department of Homeland Security Immigration and Customs Enforcement. The committees shall invite testimony from the attorney general; the secretaries of administration and finance, public safety and security, and health and human services; the chief information officer of the Commonwealth; the director of the office for refugees and immigrants; the director of the division of local mandates within the office of the auditor; representatives of the Massachusetts Sheriff's Association; Massachusetts District Attorney's Association; the Massachusetts Office for Victim Assistance and other individuals or organizations with expertise in the administration of federal policies related to immigration, public safety and civil rights. The committees shall evaluate the potential impact on state and local governments of participation in the Secure Communities program on (1) costs associated with participation in the program, including but not limited to, potential costs related to personnel, equipment, training, detention, and community education (2) administration and functioning of the law enforcement and criminal justice systems (3) outreach and communications strategies between law enforcement and local communities (4) access to public services for impacted populations, including but not limited to, children, victims of domestic and sexual violence, seniors and persons with disabilities. The committees shall inform the membership of the General Court of the findings of the hearing by filing a report with the clerks of the house and senate no later than August 31, 2011."

After debate on the question on adoption of the further amendment, the sense of the House was taken by yeas and nays at the request of Ms. Walz of Boston; and on the roll call 91 members voted in the affirmative and 66 in the negative.

**[See Yea and Nay No. 71 in Supplement.]**

Therefore the further amendment was adopted, thus precluding a vote on the pending amendment. Subsequently Mr. Rushing of Boston moved that this vote be reconsidered; and the motion to reconsider was negatived.

Mr. Webster of Pembroke and other members of the House then moved to amend the bill by adding the following section:

"SECTION 182. Chapter 149 of the General Laws is hereby amended by striking Section 19C in its entirety and inserting in its place the following:—

Section 19C. It shall be unlawful for any employer knowingly to employ any alien in the commonwealth, who is a student or visitor or, who has not been admitted to the United States for permanent residence, except those who are

Further  
amendment  
adopted,—  
yea and nay  
No. 71.

admitted under a work permit, or unless the employment of such alien is authorized by the attorney general of the United States. An employer shall not be deemed to have violated this section if he has made a bona fide inquiry whether a person hereafter employed or referred by him is a citizen or an alien, and if an alien, whether he is lawfully admitted to the United States for permanent residence, or admitted under a work permit, or is authorized by the attorney general of the United States to accept employment.

An inquiry into the employment status and identity of an alien shall be deemed bona fide if an employer verifies the work eligibility status of each newly hired employee through the federal electronic employment authorization verification program known as E-Verify or any successor program created pursuant to 8 U.S.C. 1324a.

a) Each employer in Massachusetts shall apply to participate in the program for the purpose of verifying the work eligibility status of each of the employer's newly hired employees by the following dates:

(1) An employer with two hundred (200) or more employees shall apply to participate in the program no later than January 1, 2012;

(2) An employer with at least fifty (50) employees but fewer than two hundred (200) employees shall apply to participate in the program no later than July 1, 2012; and

(3) An employer with fewer than fifty (50) employees shall apply to participate in the program no later than January 1, 2013.

b) Any employer who violates any provision of this section shall be punished by a fine of not more than ten thousand nor less than five thousand dollars. An employer convicted of a second or subsequent offence shall be punished by imprisonment in state prison for not less than five years.

c) 'Employer' as used in this section shall include any person acting in the interest of an employer directly or indirectly."

After debate the amendment was rejected. Subsequently Mr. Rushing of Boston moved that this vote be reconsidered; and the motion to reconsider was negatived.

Mrs. Poirier of North Attleborough and other members of the House then moved to amend the bill by adding the following section:

"SECTION 182. Notwithstanding any general or special law to the contrary, the governor shall designate an agency to act as the designated state identification bureau which shall enter into an agreement with the U.S. Department of Homeland Security on or before October 1, 2011, on the statewide activation and implementation of the Secure Communities strategy, as authorized by the Immigration and Nationality Act (INA) (8 USC §1105; 8 USC §1226(c); 8 USC §1226(d); 8 USC §1226(e); 8 USC §1227(a)(2); and 8 USC §1228); and FY 2008 DHS Appropriations Act (Pub. L. No. 110-161, 121 Stat. 1844, 2365 (2007))."

After debate on the question on adoption of the amendment, Mr. Jones of North Reading asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Mariano of Quincy), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 155 members were recorded as being in attendance.

**[See Yea and Nay No. 72 in Supplement.]**

Therefore a quorum was present.

After remarks on the question on adoption of the amendment (the Speaker

Quorum.

Quorum,—  
yea and nay  
No. 72.

Amendment



being in the Chair), the sense of the House was taken by yeas and nays at the request of Mrs. Poirier; and on the roll call 73 members voted in the affirmative and 84 in the negative.

rejected,—  
yea and nay  
No. 73.

**[See Yea and Nay No. 73 in Supplement.]**

[Mr. Linsky of Natick answered “Present” in response to his name.]

Therefore the amendment was rejected. Subsequently Mr. Rushing of Boston moved that this vote be reconsidered; and the motion to reconsider was negatived.

Mr. Donato of Medford being in the Chair,—

Mr. Dempsey of Haverhill then moved to amend the bill in section 2

In item 0339-1001, in lines 1 to 6, inclusive, by striking out the words “; provided, that notwithstanding any general or special law, rule or regulation to the contrary, the commissioner, subject to appropriation, shall have exclusive authority to appoint, dismiss, assign and discipline probation officers, associate probation officers, probation officers-in-charge, assistant chief probation officers and chief probation officers”;

In item 2330-0101 by striking out said item number “2330-0101” and inserting in place thereof the following item number: “2330-0150”;

By adding at the end of item 4000-0300 (inserted by amendment), the following “; provided further, that funds shall be provided in an amount not less than the total appropriated in item 1599-2009 in section 2 of chapter 182 in the acts of 2008”;

In item 7003-0702 (inserted by amendment), in line 15, by inserting after the word “diversity” the words “and education, career development and employment service programs in the city of Boston”;

In item 7004-0108, in lines 74 to 77, inclusive, by striking out the following: “; provided further, that successful individual service providers shall continue to receive stabilization sub-contract from the regional service providers in an amount equivalent to that in FY11”;

In item 7511-0100, in lines 3 and 4, by striking out the words: “; provided, that this appropriation assumes out of state tuition retained by the college”; and

In item 8900-0001 (inserted by amendment), in lines 13 to 16, inclusive, by striking out the following: “allocated to the program in fiscal year 2012; provided further, that the department shall report to the house and senate committees on ways and means on or before January 1, 2012 relative to the feasibility of the department to be”;

In section 2D by inserting after item 0840-4620 the following item:

“MASSACHUSETTS DEVELOPMENT DISABILITIES COUNCIL.

1100-1703 For the purposes of a federally funded grant entitled, Implementation of the Federal Developmental Disabilities \$1,840,016”.

By striking out sections 18 to 23, inclusive;

In section 72, in line 997, by striking out the following: “, in line 2,”, and in said line by striking out the following: “, inserted by section 115 of chapter 131 of the acts of 2010,”;

In section 92, in lines 1145 and 1146, by striking out the following: “July 1, 2011, and issue a final report on or before September 1, 2011” and inserting in place thereof the following: “October 1, 2011, and issue a final report on or before March 1, 2012”;

In section 104, in line 1452, by inserting after the word “services” the words “provided at all institutions”; and

By adding the following section:

SECTION 182. Sections 64, 65 and 66 of chapter 131 of the acts of 2010 are

hereby repealed.”.

The amendments were adopted.

*Engrossed Bill — Land Taking.*

The engrossed Bill authorizing the lease of certain property at Conomo Point in the town of Essex (see Senate, No. 1058) (which originated in the Senate), having been certified by the Clerk to be rightly and truly prepared for final passage, was put upon its final passage.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call 158 members voted in the affirmative and 0 in the negative.

**[See Yea and Nay No. 74 in Supplement.]**

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Essex—  
Conomo  
Point.

Bill enacted  
(land taking),—  
yea and nay  
No. 74.

*Orders of the Day.*

The Speaker being in the Chair,—

The House Bill making appropriations for the fiscal year 2012 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interests, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 3400, amended) was considered.

After debate on the question on passing the bill, as amended, to be engrossed, the sense of the House was taken by yeas and nays at the request of Mr. Dempsey of Haverhill; and on the roll call 157 members voted in the affirmative and 1 in the negative.

**[See Yea and Nay No. 75 in Supplement.]**

Therefore the bill, as amended, was passed to be engrossed. Mr. Kulik of Worthington moved that this vote be reconsidered; and the motion to reconsider was negatived. The bill (House, No. 3401, printed as amended) then was sent to the Senate for concurrence.

General  
Appropriation  
Bill.

Bill passed to  
be engrossed,—  
yea and nay  
No. 75.

*Order.*

On motion of Mr. DeLeo of Winthrop,—

*Ordered*, That when the House adjourns today, it adjourn to meet on Monday next at eleven o'clock A.M.



Messrs. DeLeo of Winthrop and Keenan of Salem then moved that as a mark of respect to the memory of former Chief Justices of the District Court Department Samuel Edward Zoll, a member of the House from Salem from 1965 to 1969, inclusive, the House adjourn; and the motion prevailed.

Accordingly, at nine minutes before six o'clock P.M. (Thursday, April 28), on motion of Mr. Hill of Ipswich (Mr. Donato of Medford being in the Chair), the House adjourned, to meet the following Monday at eleven o'clock A.M., in an Informal Session.